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CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF ARIZONA**

10 **UNITED STATES OF AMERICA,**

11 **Plaintiff,**

12 **v.**

13 **DANIEL ENRIQUE PAZ,**

14 **Defendant.**

CR 09 0588TUC RCC/GEE

INDICTMENT

Violation: 26 U.S.C. § 7202
(Failure to Account and Pay Over Tax)

26 U.S.C. 7203
(Failure to File Tax Returns)

15
16 **THE GRAND JURY CHARGES:**

17 **INTRODUCTION**

18
19 **1. At all times material to this Indictment the defendant DANIEL ENRIQUE PAZ**
20 **(PAZ) endeavored to evade the payment of taxes which either he or his companies owed**
21 **to the United States. PAZ was a principal and an employee of Color Sand, Inc. (Color**
22 **Sand) from approximately 1992 to 1999. Color Sand was formed by PAZ's father,**
23 **Daniel Sanchez Paz, in 1990. Color Sand's primary business was the ownership of**
24 **Spectrum Auto Collision, a body repair shop located on Ina Road in Tucson, Arizona.**

25 **2. While employed by Color Sand, PAZ had the responsibility to collect the**
26 **employment or payroll taxes from both the employees of the body repair shop and**
27 **Color Sand. The payroll taxes consist of the employee's share of federal income taxes**
28 **and medicare and social security taxes (also referred to as Federal Insurance**

1 Contribution Act or FICA taxes). PAZ, on behalf of Color Sand, was also required by
2 law to remit it's employer share of taxes which matched the employee's medicare and
3 social security taxes. All of these taxes were required to be paid over to the Internal
4 Revenue Service four times during the year through IRS Form 941. Between 1996 and
5 1999, PAZ collected approximately \$296,346 of payroll taxes from the Spectrum Auto
6 Collision employees and Color Sand. PAZ, however, failed to pay those taxes over to
7 the Internal Revenue Service. The Internal Revenue Service subsequently filed liens
8 against Color Sand for these and other taxes unpaid taxes.

9 3. PAZ left Spectrum Auto Collision sometime around 1999 to run another
10 Spectrum Auto Collision shop owned and operated by Color Sand which was located
11 on Broadway Avenue in Tucson. PAZ subsequently took over ownership and control
12 of that body shop through his incorporation of Calm, Inc., (Calm), an Arizona
13 corporation. He subsequently opened a second auto body shop under Calm, Inc, on
14 First Avenue in Tucson in 2001.

15 4. PAZ employed a number of people to work for him on a full time basis at both
16 body shops, including auto body technicians, laborers, painters, marketing
17 representatives and office workers. PAZ paid these employees bi-weekly by a company
18 check throughout the year. He withheld from their paycheck their payroll taxes owed
19 by each employee. PAZ collected employee payroll taxes in the approximate amount
20 of \$85,288 in 2002, \$66,666 in 2003, \$62,294 in 2004, and \$26,560 in 2005 for a total of
21 \$240,808. PAZ failed to pay over those taxes to the Internal Revenue Service. Calm's
22 matching share of social security and medicare taxes were approximately \$31,448 for
23 2002, \$26,726 for 2003, \$27,704 for 2004 and \$14,037 for 2005, for a total of \$99,915.
24 PAZ also failed to pay over these taxes. The total amount of for these unpaid payroll
25 taxes was \$340,724. Because PAZ did not pay over these taxes, his employees did not
26 receive credit from the Social Security Administration for the unpaid taxes. The Social
27 Security and Medicare programs lost a significant amount of tax revenue. The

1 employees did receive credit for the federal income tax withheld from their paychecks
2 as reflected in their Forms W-2, but the Internal Revenue Service did not receive those
3 taxes.

4 5. Aside from his failure to remit the payroll taxes, PAZ has never filed a federal
5 corporate income tax returns for Calm, Inc., since it was incorporated in 1999 even
6 though Calm, Inc., had received significant revenue from its two auto body shops. Nor
7 has PAZ filed a Form 941 remitting the payroll taxes to the Internal Revenue since the
8 fourth quarter of 2000 even though payroll tax withholdings were collected from his
9 employees. Nor has PAZ filed federal income tax returns for his personal taxes since
10 1998 even though he had significant income from his body shop business.

11 6. The statements set forth in the Introduction are hereby incorporated by reference
12 into each and every count of the Indictment.

13 COUNT ONE

14 On or about April 15, 2003, at or near Tucson, in the District of Arizona, the
15 defendant, DANIEL ENRIQUE PAZ, had and received gross income of at least \$13,850
16 that by reason of such gross income he was required to file by law, following the close
17 of the calendar year 2002, and on or before April 15, 2003, an income tax return to the
18 Internal Revenue Service, stating specifically the items of his gross income and any
19 deductions and credits to which he was entitled; that well-knowing and believing all of
20 the foregoing, he did willfully fail to make an income tax return to said Internal
21 Revenue Service.

22 All in violation of Title 26, United States Code, Section 7203.

23 COUNT TWO

24 On or about April 30, 2003, at or near Tucson, in the District of Arizona, the
25 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
26 over to the Internal Revenue Service all of the federal income taxes and Federal
27
28

1 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
2 Inc. to the United States of America, for the first quarter of the year 2003.

3 All in violation of Title 26, United States Code, Section 7202.

4 COUNT THREE

5 On or about April 30, 2003, at or near Tucson, in the District of Arizona, the
6 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
7 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
8 employed people, a Form 941 to the Internal Revenue Service to account for the
9 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
10 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
11 States, did willfully fail to make a return of a Form 941 stating that the said taxes had
12 been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
13 DANIEL ENRIQUE PAZ, for the first quarter of the year 2003 to the Internal
14 Revenue Service.

15 All in violation of Title 26, United States Code, Section 7203.

16 COUNT FOUR

17 On or about July 31, 2003, at or near Tucson, in the District of Arizona, the
18 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
19 over to the Internal Revenue Service all of the federal income taxes and Federal
20 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
21 Inc. to the United States of America, for the second quarter of the year 2003.

22 All in violation of Title 26, United States Code, Section 7202.

23 COUNT FIVE

24 On or about July 31, 2003, at or near Tucson, in the District of Arizona, the
25 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
26 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
27 employed people, a Form 941 to the Internal Revenue Service to account for the
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1 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
2 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
3 States, did willfully fail to make a return of a Form 941 stating that the said taxes had
4 been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
5 DANIEL ENRIQUE PAZ, for the second quarter of the year 2003 to the Internal
6 Revenue Service.

7 All in violation of Title 26, United States Code, Section 7203.

8 COUNT SIX

9 On or about October 31, 2003, at or near Tucson, in the District of Arizona, the
10 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
11 over to the Internal Revenue Service all of the federal income taxes and Federal
12 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
13 Inc. to the United States of America, for the third quarter of the year 2003.

14 All in violation of Title 26, United States Code, Section 7202.

15 COUNT SEVEN

16 On or about October 31, 2003, at or near Tucson, in the District of Arizona, the
17 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
18 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
19 employed people, a Form 941 to the Internal Revenue Service to account for the
20 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
21 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
22 States, did willfully fail to make a return of a Form 941 stating that the said taxes had
23 been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
24 DANIEL ENRIQUE PAZ, for the third quarter of the year 2003 to the Internal
25 Revenue Service.

26 All in violation of Title 26, United States Code, Section 7203.

COUNT EIGHT

On or about February 2, 2004, at or near Tucson, in the District of Arizona, the defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay over to the Internal Revenue Service all of the federal income taxes and Federal Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm, Inc. to the United States of America, for the fourth quarter of the year 2003.

All in violation of Title 26, United States Code, Section 7202.

COUNT NINE

On or about February 2, 2004, at or near Tucson, in the District of Arizona, the defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which employed people, a Form 941 to the Internal Revenue Service to account for the withheld federal income taxes and the Federal Insurance Contribution Act (FICA) taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United States, did willfully fail to make a return of a Form 941 stating that the said taxes which had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant, DANIEL ENRIQUE PAZ, for the fourth quarter of the year 2003 to the Internal Revenue Service.

All in violation of Title 26, United States Code, Section 7203.

COUNT TEN

On or about April 15, 2004, at or near Tucson, in the District of Arizona, the defendant, DANIEL ENRIQUE PAZ, had and received gross income of at least \$15,600 that by reason of such gross income he was required to file by law, following the close of the calendar year 2003, and on or before April 15, 2004, an income tax return to the Internal Revenue Service, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that well-knowing and believing all of

1 the foregoing, he did willfully fail to make an income tax return to said
2 Internal Revenue Service.

3 All in violation of Title 26, United States Code, Section 7203.

4 COUNT ELEVEN

5 On or about April 30, 2004, at or near Tucson, in the District of Arizona, the
6 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
7 over to the Internal Revenue Service all of the withheld federal income taxes and
8 Federal Insurance Contributions Act (FICA) taxes due and owing by the employees of
9 Calm, Inc. to the United States of America, for the first quarter of the year 2004.

10 All in violation of Title 26, United States Code, Section 7202.

11 COUNT TWELVE

12 On or about April 30, 2004, at or near Tucson, in the District of Arizona, the
13 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
14 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
15 employed people, a Form 941 to the Internal Revenue Service to account for the
16 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
17 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
18 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
19 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
20 DANIEL ENRIQUE PAZ, for the first quarter of the year 2004 to the Internal Revenue
21 Service.

22 All in violation of Title 26, United States Code, Section 7203.

23 COUNT THIRTEEN

24 On or about August 2, 2004, at or near Tucson, in the District of Arizona, the
25 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
26 over to the Internal Revenue Service all of the federal income taxes and Federal
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1 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
2 Inc. to the United States of America, for the second quarter of the year
3 2004.

4 All in violation of Title 26, United States Code, Section 7202.

5 COUNT FOURTEEN

6 On or about August 2, 2004, at or near Tucson, in the District of Arizona, the
7 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
8 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
9 employed people, a Form 941 to the Internal Revenue Service to account for the
10 withheld federal income taxes withheld and the Federal Insurance Contribution Act
11 (FICA) taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the
12 United States, did willfully fail to make a return of a Form 941 stating that the said
13 taxes which had been collected from the employees of Calm, Inc., and Calm, Inc., by the
14 defendant, DANIEL ENRIQUE PAZ, for the second quarter of the year 2004 to the
15 Internal Revenue Service.

16 All in violation of Title 26, United States Code, Section 7203.

17 COUNT FIFTEEN

18 On or about November 1, 2004, at or near Tucson, in the District of Arizona, the
19 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
20 over to the Internal Revenue Service all of the federal income taxes and Federal
21 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
22 Inc. to the United States of America, for the third quarter of the year 2004.

23 All in violation of Title 26, United States Code, Section 7202.

24 COUNT SIXTEEN

25 On or about November 1, 2004, at or near Tucson, in the District of Arizona, the
26 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
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1 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
2 employed people, a Form 941 to the Internal Revenue Service to account for the
3 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
4 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
5 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
6 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
7 DANIEL ENRIQUE PAZ, for the third quarter of the year 2004 to the Internal
8 Revenue Service.

9 All in violation of Title 26, United States Code, Section 7203.

10 COUNT SEVENTEEN

11 On or about January 31, 2005, at or near Tucson, in the District of Arizona, the
12 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
13 over to the Internal Revenue Service all of the federal income taxes and Federal
14 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
15 Inc. to the United States of America, for the fourth quarter of the year 2004.

16 All in violation of Title 26, United States Code, Section 7202.

17 COUNT EIGHTEEN

18 On or about January 31, 2005, at or near Tucson, in the District of Arizona, the
19 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
20 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
21 employed people, a Form 941 to the Internal Revenue Service to account for the
22 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
23 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
24 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
25 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
26 DANIEL ENRIQUE PAZ, for the fourth quarter of the year 2004 to the Internal
27 Revenue Service.

1 All in violation of Title 26, United States Code, Section 7203.

2 COUNT NINETEEN

3 On or about April 15, 2005, at or near Tucson, in the District of Arizona, the
4 defendant, DANIEL ENRIQUE PAZ, had and received gross income of at least \$15,900
5 that by reason of such gross income he was required to file by law, following the close
6 of the calendar year 2004, and on or before April 15, 2005, an income tax return to the
7 Internal Revenue Service, stating specifically the items of his gross income and any
8 deductions and credits to which he was entitled; that well-knowing and believing all of
9 the foregoing, he did willfully fail to make an income tax return
10 to said Internal Revenue Service.

11 All in violation of Title 26, United States Code, Section 7203.

12 COUNT TWENTY

13 On or about May 2, 2005, at or near Tucson, in the District of Arizona, the
14 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
15 over to the Internal Revenue Service all of the federal income taxes and Federal
16 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
17 Inc. to the United States of America, for the first quarter of the year 2005.

18 All in violation of Title 26, United States Code, Section 7202.

19 COUNT TWENTY-ONE

20 On or about May 2, 2005, at or near Tucson, in the District of Arizona, the
21 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
22 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
23 employed people, a Form 941 to the Internal Revenue Service to account for the
24 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
25 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
26 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
27 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,

1 **DANIEL ENRIQUE PAZ, for the first quarter of the year 2005 to the Internal**
2 **Revenue Service.**

3 **All in violation of Title 26, United States Code, Section 7203.**

4 **COUNT TWENTY-TWO**

5 **On or about August 1, 2005, at or near Tucson, in the District of Arizona, the**
6 **defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay**
7 **over to the Internal Revenue Service all of the federal income taxes and federal**
8 **Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,**
9 **Inc. to the United States of America, for the second quarter of the year 2005.**

10 **All in violation of Title 26, United States Code, Section 7202.**

11 **COUNT TWENTY-THREE**

12 **On or about August 1, 2005, at or near Tucson, in the District of Arizona, the**
13 **defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of**
14 **Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which**
15 **employed people, a Form 941 to the Internal Revenue Service to account for the**
16 **withheld federal income taxes and the Federal Insurance Contribution Act (FICA)**
17 **taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United**
18 **States, did willfully fail to make a return of a Form 941 stating that the said taxes which**
19 **had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,**
20 **DANIEL ENRIQUE PAZ, for the second quarter of the year 2005 to the Internal**
21 **Revenue Service.**

22 **All in violation of Title 26, United States Code, Section 7203.**

23 **COUNT TWENTY-FOUR**

24 **On or about October 31, 2005, at or near Tucson, in the District of Arizona, the**
25 **defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay**
26 **over to the Internal Revenue Service all of the federal income taxes and Federal**

1 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
2 Inc. to the United States of America, for the third quarter of the year 2005.

3 All in violation of Title 26, United States Code, Section 7202.

4 COUNT TWENTY-FIVE

5 On or about October 31, 2005, at or near Tucson, in the District of Arizona, the
6 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
7 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
8 employed people, a Form 941 to the Internal Revenue Service to account for the
9 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
10 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
11 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
12 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
13 DANIEL ENRIQUE PAZ, for the third quarter of the year 2005 to the Internal
14 Revenue Service.

15 All in violation of Title 26, United States Code, Section 7203.

16 COUNT TWENTY-SIX

17 On or about January 31, 2006, at or near Tucson, in the District of Arizona, the
18 defendant, DANIEL ENRIQUE PAZ, did willfully fail to truthfully account for and pay
19 over to the Internal Revenue Service all of the federal income taxes and Federal
20 Insurance Contributions Act (FICA) taxes due and owing by the employees of Calm,
21 Inc. to the United States of America, for the fourth quarter of the year 2005.

22 All in violation of Title 26, United States Code, Section 7202.

23 COUNT TWENTY-SEVEN

24 On or about January 31, 2006, at or near Tucson, in the District of Arizona, the
25 defendant, DANIEL ENRIQUE PAZ, a person required to file by law, as the owner of
26 Calm, Inc., doing business as Spectrum Auto Collision, an auto body repair shop which
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1 employed people, a Form 941 to the Internal Revenue Service to account for the
2 withheld federal income taxes and the Federal Insurance Contribution Act (FICA)
3 taxes due and owing by Calm, Inc., and the employees of Calm, Inc., to the United
4 States, did willfully fail to make a return of a Form 941 stating that the said taxes which
5 had been collected from the employees of Calm, Inc., and Calm, Inc., by the defendant,
6 DANIEL ENRIQUE PAZ, for the fourth quarter of the year 2005 to the Internal
7 Revenue Service.

8 All in violation of Title 26, United States Code, Section 7203.

9 COUNT TWENTY-EIGHT

10 On or about April 15, 2006, at or near Tucson, in the District of Arizona, the
11 defendant, DANIEL ENRIQUE PAZ, had and received gross income of at least \$16,400
12 that by reason of such gross income he was required to file by law, following the close
13 of the calendar year 2005, and on or before April 15, 2006, an income tax return to the
14 Internal Revenue Service, stating specifically the items of his gross income and any
15 deductions and credits to which he was entitled; that well-knowing and believing all of
16 the foregoing, he did willfully fail to make an income tax return to said Internal
17 Revenue Service.

18 All in violation of Title 26, United States Code, Section 7203.

19
20 A TRUE BILL

21
22 Presiding Juror

APR 08 2009

23
24 DIANE J. HUMETWA
25 United States Attorney
26 District of Arizona

REDACTED FOR
PUBLIC DISCLOSURE

27 *Wallace Henderson*
28 Assistant U.S. Attorney